THE HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.15362 OF 1996

21.03.2007

A.P. Fameeda Begum

….Petitioner

Vs.

1. The State of A.P., rep., by its Collector,
   Chittoor District and another. ….Respondents

THE HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.15362 of 1996

ORDER:

In this writ petition, the petitioner has questioned the notice dated 6.12.1983 and the declaration under Section 6 of the Land Acquisition Act, dated 6.12.1983.

On the requisition from the Mandal Revenue Officer, Vayalpad, Chittoor District, an extent of Ac.9.42 cents of land covered by Survey Nos.155/1 to 7, 154/92 1B, 156 and 136/5 of Chinthaparthy village was notified for acquisition for the purpose of providing house sites to weaker sections at Chinthaparthy village. A draft notification was published and consequently, declaration was issued under section 6 of the Act and an award was also passed in Award No.1/86-87, dated 2.9.1986 determining the compensation. So far as the petitioner is concerned, he claims to be the owner of Ac.Ac.1.13 cents covered by Survey No.154/2/1B of Chinthaparthy village. The writ petition is filed mainly on the ground that while issuing the notification, enquiry under Section 5(A) of the Act would not have been dispensed with and that the award was passed beyond the statutory period contemplated under the Land Acquisition Act. But, however, in the counter-affidavit of the respondents, it is stated that consequent to the issuance of notification and passing of the award, possession was taken and pattas were distributed to the needy beneficiaries. It is stated that the award was passed on 2.9.1986 and on reference application submitted by the petitioner, the matter was referred under Section 18 of the Land Acquisition Act to the Subordinate Judge's Court, Madanapalle in reference No.1/86-87.

Though it is submitted by the learned Counsel for the petitioner

that possession was not taken as mentioned in the impugned notice dated 27.6.1996, but however, in the said notice directions were issued not to enter into the land in view of acquisition of land and taking over possession by the respondents.

In any event, in this case, notification was issued in the year 1983. It is stated in the counter-affidavit that after issuance of necessary notice, award proceedings were also concluded on 2.9.1986 and reference was made on the application filed by the petitioner under section 18 of the Land Acquisition Act. Though in the counter-affidavit, it is clearly stated that possession was taken and pattas were given to the needy beneficiaries, the same is not controverted by filing any reply affidavit. This writ petition is filed nearly 10 years after passing of the award. Further, having sought for reference under Section 18 of the Act, it is not open to the petitioner to question the very notification issued in the year 1983 i.e., nearly 10 years after passing of the award.

Inasmuch as the land is notified for distribution of house sites to weaker sections, it cannot be said that there was no urgency to invoke the provisions of section 17(1) of the Act so as to dispense with the enquiry under section 5 (A) of the Act.

For the above said reasons and in view of the abnormal delay and the laches, which are not explained and also in view of the fact that the award was passed on 2.9.1986, possession was taken and pattas were distributed to third parties and the reference was also ordered on the application filed by the petitioner, I am of the view that there is no reason to interfere at this stage and the writ petition is devoid of merits.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice R. Subhash Reddy

Dated: 21.3.2007
Nn.

THE HONOURABLE SRI JUSTICE R.SUBHASH REDDY

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